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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,704	09/19/2003	Joseph J. Bella	14000	6017

7590 12/27/2006  
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EXAMINER
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LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/665,704	BELLA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Carlos Lugo	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/18/06.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,8-10,12 and 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,8-10,12 and 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This Office Action is in response to applicant's amendment filed on October 18, 2006.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1,4,8,9,12, and 18-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of FR 2,469,771 to Cheh and further in view of US Pat No 3,854,784 to Hunt et al (Hunt).

Regarding claim 1, Chang discloses a container (3) comprising a pocket (desk openings) and a drawer (31) slidably relative to the pocket in an axial direction between closed position within the pocket and an open position at least partly out of the pocket.

A latch mechanism (Figure 2) has a first latch component (1) on the pocket and a second latch component (2) on the drawer.

One of the latch components has a track component disposed on the pocket and that includes a portal, a nest (at 1131), an entrance track (112) leading to the nest, an exit track (114) from the nest, and a redirector (at 113) associate with the nest and the tracks.

The other of the latch components has a follower (22) disposed in the drawer and moveable along the tracks and moveable into and out of the nest upon transition from the entrance track to the exit track. The track component is substantially fixed relative to the pocket.

However, Chang fails to disclose that the follower is translatable traverse to the direction with respect to the drawer. Chang discloses that the follower moves in an arc.

Cheh teaches that it is well known in the art to have a follower (28) that is translated in a direction transverse to the axial direction to help and guide the follower when it is connected to a track component (Figures 1-4). The follower is freely movable in an unbiased state along a slot (27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Cheh, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

Further, Chang fails to disclose that the portal is configured to receive the follower regardless of the position of the follower. Chang illustrates that the follower needs to be positioned in a central position so that the portal can receive the follower (Figures 2 and 4).

Hunt teaches that it is well known in the art to provide guide surfaces (11 and 19) that guide a follower (37) to be received into a portal. These surfaces will aid the

receiving of the follower into the portal regardless the position of the follower with respect to the portal.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the portal described by Chang with guide surfaces, as taught by Hunt, in order to receive the follower into the portal regardless the position of the follower with respect to the portal.

As to claim 4, Chang discloses that the drawer has an inner end wherein the follower is disposed.

As to claim 8, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 9, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 12, Chang discloses a container (3) comprising a pocket (desk openings) and a drawer (31) slidably relative to the pocket in an axial direction between closed position within the pocket and an open position at least partly out of the pocket.

A latch mechanism (Figure 2) has a first latch component (1) on the pocket and a second latch component (2) on the drawer.

One of the latch components has a track component disposed on the pocket and that includes a portal configured to receive a follower (22), a nest (at 1131), an entrance track (112) leading to the nest, an exit track (114) from the nest, and a redirector (at 113) associate with the nest and the tracks.

The other of the latch components has the follower (22) disposed in the drawer and moveable along the tracks and moveable into and out of the nest upon transition from the entrance track to the exit track. The track component is substantially fixed relative to the pocket.

However, Chang fails to disclose that the follower is translatable traverse to the direction with respect to the drawer. Chang discloses that the follower moves in an arc.

Cheh teaches that it is well known in the art to have a follower (28) that is translated in a direction transverse to the axial direction to help and guide the follower when it is connected to a track component (Figures 1-4). The follower is freely movable in an unbiased state along a slot (27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Cheh, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to the limitation, "a cosmetic container", Chang device is capable of contain any cosmetic item. Further, applicant is reminded that where there is physical identity between the subject matter of the claims and the prior art, the label given to the claimed subject matter does not distinguish the invention over the prior art. Therefore, the device described by Chang can be considered as a "cosmetic container".

Art Unit: 3676

As to claim 18, Chang illustrates that the redirector (at 113) includes a surface for guiding the follower into the notch from the entrance track and a second surface for guiding the follower into the exit track from the notch (Figures 4-7).

As to claims 19 and 20, Chang illustrates a method for closing, latching, unlatching, and opening a container (Figures 4-7). Further, Chang device is capable of being provided with a cosmetic in the drawer.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 10 and 14-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of FR 2,469,771 to Cheh and US Pat No 3,854,784 to Hunt et al (Hunt) as applied to claim 1 above, and further in view of JP 11270212 to Sasaki.

Chang, as modified by Cheh and Hunt, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.

Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of the top part of the drawer, instead of being disposed at an end wall of the pocket, as taught by Sasaki, into a device as described by Chang, because the location where the track component is located does not change the mechanism of the lock.

As to claims 11 and 14, Cheh teaches that it is well known in the art to have a slot (27) wherein a follower (28) is slidably disposed in an unbiased state so as to help and guide the follower when it is connected to a track component (Figures 1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Cheh, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to claim 15, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 16, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 17, Chang, as modified by Cheh and Hunt, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.



Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of the top part of the drawer, instead of being disposed at an end wall of the pocket, as taught by Sasaki, into a device as described by Chang, as modified by Pryce and Hunt, because the location where the track component is located does not change the mechanism of the lock.

### ***Response to Arguments***

6. Applicant's arguments with respect to the previous rejection to the claims have been considered but are moot in view of the new ground(s) of rejection. At the instant, Chang, as modified by Cheh and Hunt, or further as modified by Sasaki, discloses the new limitations claimed.

### ***Conclusion***

7. Applicant's amendment, that the follower is freely moved in an unbiased state, as now required in claims 1, 12 and 19, necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3676

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Carlos Lugo  
Patent Examiner  
Art Unit 3676

December 12, 2006.



**BRIAN E. GLESSNER**  
**SUPERVISORY PATENT EXAMINER**